

COPY

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

PLAINTIFF,

VS

NO. 89-CR-83-05-E

DAVID ROYCE LADD,

DEFENDANT.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

SENTENCING

BEFORE THE HONORABLE JAMES O. ELLISON, JUDGE

TUESDAY, APRIL 15, 1990

TULSA, OKLAHOMA

A P P E A R A N C E S

FOR THE PLAINTIFF:

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MARY ANN MCGINTY, REPORTER

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RICHARD M. LAWRENCE
CLERK
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

P R O C E E D I N G S

Tuesday, April 15, 1990

THE COURT: First sentencing this morning is 89-Criminal-83-05, United States of America versus David Royce Ladd. Jack Morgan appears for the United States, John Dowdell for Mr. Ladd.

MR. MORGAN: Good morning, Your Honor.

THE COURT: Good morning, Mr. Morgan. Good morning Mr. Dowdell.

MR. DOWDELL: Good morning, Judge.

THE COURT: Are there any revisions, objections to the pre-sentence report in Mr. Ladd's case? Mr. Morgan, do you have any comment? I know the Government has filed a motion and I have reviewed that motion. But in addition, do you have any comment that you would like to make for this record?

MR. MORGAN: No. We find the pre-sentence report professionally done. We make no objections or take exceptions thereto. We do have present today in court, the case agent Mr. Scott Horton, if Your Honor desires to hear from him concerning the substantial assistance.

I don't know necessarily that it would have to be in camera. I don't believe there would be any hostility to the Defendant if it was disclosed in open court.

THE COURT: Very well. If that's the feeling of the

1 Government.

2 Do you have any objection to it being held by the
3 Court in open court?

4 MR. DOWDELL: I do not.

5 THE COURT: All right, fine. If you will be seated
6 then. If the witness would come forward and be sworn, I would
7 like to hear that testimony.

8 MR. MORGAN: Thank you, Your Honor. At this time
9 the Government would call Scott Horton.

10 SCOTT HORTON,
11 called as a witness on behalf of the Plaintiff, being first
12 duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. MORGAN:

15 MR. MORGAN: Your Honor, may I stand here?

16 THE COURT: Yes.

17 MR. MORGAN: Thank you.

18 Q For the record, please, would you tell us your name,
19 please?

20 A Scott Horton.

21 Q And would you spell your last name for the Court
22 reporter?

23 A H-O-R-T-O-N.

24 Q All right. I think if you would pull that up a little
25 bit closer to you. Are you the case agent in United States of

1 America versus Paul Thimmesch, also known as Lassley, Hall,
2 Jr., Marteney Ladd and Michael Steven Hall?

3 A That is correct.

4 Q And have you been involved in this particular
5 investigation since its inception, I believe in February of
6 1989?

7 A That is correct.

8 Q And you've been in a position where you have been able
9 to evaluate not only the evidence in the case but the
10 cooperation of the Defendants; is that right?

11 A That is correct, sir.

12 Q During the course of Judge Ellison's involvement in this
13 case, you have likewise worked with other co-defendants namely
14 Loran Hall, Jr., Barbara Ann Marteney and Michael Steven Hall;
15 is that right?

16 A That is true.

17 Q And have they provided you with assistance?

18 A Yes, sir, they have.

19 Q All right. And that assistance you've previously spoken
20 of and informed Judge Ellison of that also, haven't you?

21 A That is correct.

22 Q Have you been in a good position then to evaluate David
23 Royce Ladd in his interview and debriefing and cooperation in
24 regard to the testimony that you've gotten from the other
25 co-defendants?

1 A Yes, sir, I have.

2 Q All right. Can you explain to Judge Ellison then
3 whether or not you feel this has been of honest, substantial
4 assistance to the prosecution in this case and what aid and
5 assistance it will be?

6 A Yes, sir. In my opinion, Mr. Ladd upon his interview
7 was very open and honest about admitting to the actual overt
8 acts contained in the indictment. Also his statements did
9 corroborate statements made by Loran Eugene Hall, Jr., Michael
10 Hall and Barbara Marteney as to his involvement and the times
11 and locations of that involvement.

12 Q Further, have we also an agreement and understanding
13 with Mr. Hall that should-- or excuse me, Mr. Ladd, that
14 should Loran Eugene Hall, Sr., go to trial, that he would be a
15 willing and cooperative witness for the Government in that
16 case?

17 A Yes, sir. Mr. Ladd has assured me of his cooperation in
18 the form of testimony against Loran Eugene Hall, Sr., the
19 remaining Defendant in this case should they go to trial.

20 Q Okay. Now, can you tell the Court briefly without going
21 into any great detail, how this testimony would affect Hall,
22 Sr.? That is, what does Mr. Ladd have to say about Mr. Hall?

23 A Mr. Ladd could go into detail about contacts made with
24 Mr. Hall on or about the spring of 1988 and Mr. Ladd's
25 association with the Defendant Loran Eugene Hall, Sr., and the

1 manufacturing processes that occurred in Burns, Kansas. He
2 can also go into detail about weapons observed during that
3 time period, statements made by Loran Eugene Hall, Sr., as to
4 his criminal involvement.

5 Q What about the purchase of precursor chemicals? Was
6 that also--

7 A That is correct. He admitted to his involvement in the
8 purchase of precursor chemicals and likewise to Loran Eugene
9 Hall's involvement into those purchases also.

10 Q Did he indicate to you who if anyone was the leader of
11 the organization?

12 A To his knowledge Loran Eugene Hall, Sr., would have been
13 the leader of the organization.

14 MR. MORGAN: I have no further questions.

15 THE COURT: Any questions?

16 MR. DOWDELL: Just one question, Your Honor, if I
17 might.

18 THE COURT: All right.

19 CROSS-EXAMINATION

20 BY MR. DOWDELL:

21 Q Mr. Horton, in the course of your questioning Mr. Ladd,
22 did you find that he had any trouble recalling specific dates
23 or details upon your initial questions?

24 A That is correct. He did have some difficulty recalling
25 dates and details. He attributed this to a, I believe, a head

1 injury that had occurred prior to his arrest.

2 MR. DOWDELL: Thank you. No further questions.

3 THE COURT: Very well. What was Mr. Hall's level of
4 participation in comparison with other defendants who have
5 been, because of their level of participation, granted
6 probation by this Court? Where did he fit in.

7 THE WITNESS: Loran Eugene Hall, Sr.?

8 THE COURT: No, no. I'm sorry, I misspoke. Mr.
9 Ladd.

10 THE WITNESS: Mr. Ladd was asked upon by Loran
11 Eugene Hall, Sr., and also Loran Eugene Hall, Jr., to purchase
12 precursor chemicals from a chemical store in Grand Prairie,
13 Texas. He did so at their request. He also accompanied Loran
14 Eugene Hall, Sr., to on or about Burns, Kansas and assisted in
15 the manufacturing process.

16 THE COURT: Is it your testimony that his
17 participation in comparison with others that have been
18 sentenced by this Court was minimal.

19 THE WITNESS: I would say that his participation was
20 less than Loran Eugene Hall, Jr.'s, but also greater than
21 Barbara Marteney's.

22 THE COURT: All right. Thank you very much.
23 Anything further?

24 MR. MORGAN: Nothing further, Your Honor.

25 THE COURT: You may be seated.

1 THE WITNESS: All right. Thank you, Your Honor.

2 THE COURT: You may approach the bench. Mr.
3 Dowdell, do you have any comments to make about the
4 pre-sentence report?

5 MR. DOWDELL: We do have some. There are some
6 relatively minor discrepancies, Your Honor, between Mr. Ladd's
7 version of the facts and those found in the pre-sentence
8 report. If I could, I might just address those in my
9 statement to the Court.

10 THE COURT: All right, fine. If you would do it in
11 that way.

12 MR. DOWDELL: There are just a few items which I
13 would like to elaborate on because I do not believe they have
14 been adequately developed in the pre-sentence report or other
15 pleadings which have been filed in the case which might
16 apprise the Court of all of the circumstances relating to Mr.
17 Ladd.

18 Most significantly is the construction accident to
19 which Mr. Horton just alluded, which occurred in September of
20 1986. At that time Mr. Ladd was the victim of a severe
21 accident in which he fell on a construction site and had-- was
22 ultimately diagnosed to be the victim of brain damage as a
23 result of this accident.

24 He has since that time, Judge, been treated by a
25 host of doctors and I do not want to belabor these proceedings

1 and the Court with all of the correspondence with those
2 doctors, which would detail what his history of physical and
3 mental health has been since that time.

4 However, there was one letter from a Doctor Jonathan
5 Walker, an MD, in Richardson, Texas, who began treating Mr.
6 Ladd in October of 1988. That letter was attached to our
7 petition to enter a plea of guilty as Exhibit B. And if I
8 could, I would like to provide a copy of that to the Court
9 because I think that it capsulizes what his problem has been.

10 THE COURT: May I take a moment to read it?

11 MR. DOWDELL: You may, Your Honor.

12 THE COURT: Thank you.

13 MR. DOWDELL: The reason I think that this is
14 especially significant, Judge, is that as I said, there are
15 discrepancies between Mr. Ladd's version and the pre-sentence
16 report. I do not think that they need in any way alter these
17 proceedings or require any supplementation.

18 The important point is this: David Ladd has
19 admitted criminal conduct. However, I do believe that this
20 might explain those discrepancies in that since October of
21 1988, at the latest, Mr. Ladd has suffered a series of
22 epileptic seizures.

23 He has, in fact, suffered at least, according to
24 this letter, one coma which lasted for a period of from three
25 to eight days. It's not clear exactly how long. Since this

1 incident, this particular coma, Mr. Ladd has been in a
2 comatose state on three different occasions. Once in 1988 and
3 twice in 1989.

4 His problems with seizures are largely under control
5 now. He is under medication, one medication Depakote. He has
6 not had a seizure for three to five months, I believe.

7 But as I said, I wanted to call this to the
8 attention of the Court, inasmuch as the letter details a
9 history of the seizure and, in fact, brain damage as a result
10 of this accident. This letter was prepared, Judge, for
11 submission to the Texas Employment Commission, when Mr. Ladd
12 was seeking employment after the accident.

13 I don't think it was very helpful in that regard but
14 it's also important that the dates, not only of this letter,
15 but of the events described in the letter are precisely the
16 same dates and precisely the same time that Mr. Ladd became
17 involved with Loran Hall and Michael Hall and Loran Hall, Jr.,
18 and Barbara Marteney.

19 He was unemployed. He had obviously some
20 significant problems health-wise and mentally and I think that
21 that is an important consideration.

22 He does, however, admit criminal conduct.
23 Specifically, he admits the purchase on a number of occasions
24 and this is one of the points that we disagree on how many
25 occasions. We say five or six and the Government says nine

1 and he says that Mr. Ladd told him that in an interview.

2 But he purchased precursor chemicals and glassware
3 knowing what that would be used for and on at least one
4 occasion attempted to assist Loran Hall, Sr., in the
5 manufacture of methamphetamine. In view of the Government's
6 substantial assistance motion, a downward departure obviously
7 can be considered by the Court and is authorized.

8 However, I do think that the policies of the
9 sentencing guidelines when considered in view of the
10 circumstances of this case are interesting. Here we have
11 three Defendants, three co-defendants, who have been sentenced
12 to 16 months incarceration, 12 months in one day
13 incarceration, and five years probation respectively.

14 And although I am not in a position to tell the
15 court what sentence should be rendered with respect to Mr.
16 Ladd, I do believe that under these circumstances in view of
17 what the other Defendants' sentences have been, in view of the
18 substantial assistance rendered by Mr. Ladd, that a sentence
19 of incarceration is not appropriate in this case.

20 A year ago almost to the day, Judge, Mr. Ladd left
21 Balch Springs, Texas, where he got involved with the Halls and
22 Marteneys and he moved back to North Canton, Ohio, where he is
23 from and where his family lives. And he did this in order to
24 get away from the situation, in order to extricate himself
25 from his involvement with these people.

1 He-- not only was David involved with these people,
2 but his wife was as well. And his children were friends with
3 their children and he has a wife and three children, Judge. I
4 think that's clear in the PSI.

5 But I think the Court should know that he has moved
6 back to a situation where he has extended family. Mr. Ladd
7 has come here today with his parents, sitting in the front row
8 here, Mr. and Mrs. Ladd who live in North Canton, Ohio.

9 He has the benefit of their supervision and their
10 support there in North Canton, Ohio, unlike the situation in
11 Balch Springs. And under those circumstances I would request
12 that the Court consider the propriety of a sentence which does
13 not include incarceration.

14 THE COURT: Thank you, Mr. Dowdell.

15 Mr. Ladd, anything that you would like to say?

16 THE WITNESS: I'm ashamed of what I was into and I
17 can assure you, Your Honor, that nothing like this will ever
18 come into my family again.

19 THE COURT: The Court, as all courts, desires to
20 encourage cooperation with the United States in all matters
21 and the fact that the United States has filed this motion,
22 this 5(K) 1.1 motion under the guidelines, coupled with the
23 sentencings that this Court has imposed for others, Marteney
24 in particular, in light of all of the circumstances of this
25 case, the Court is going to depart from the sentencing

1 guidelines downward and going to grant a rarity and that is
2 probation in this case for a period of five years.

3 So I'm going to spend the imposition of sentence and
4 we'll grant the probation for five years subject to the normal
5 conditions of probation, among which are these: That you not
6 commit any crimes, federal, state or local, that you
7 participate in a program for the treatment of substance abuse,
8 at the discretion of U.S. Probation Office.

9 Also, it has been brought to the Court's attention
10 that you do have a support system in Ohio that's not available
11 elsewhere, so you may travel to and from Ohio. All other
12 standard provisions of probation will apply. The Court also
13 imposes the statutory crime victims fund assessment of
14 \$50.00.

15 Is there anything further that you desire to present
16 to the Court, Mr. Morgan?

17 MR. MORGAN: No, sir, I have nothing else.

18 THE COURT: Mr. Dowdell?

19 MR. DOWDELL: Nothing further, Judge.

20 THE COURT: All right, fine. You'll be excused.

21 MR. MORGAN: Thank you, Judge.

22 MR. DOWDELL: Thank you, Judge.
(END OF PROCEEDINGS)

23 ++++++
24 THIS IS A TRUE AND CORRECT TRANSCRIPT OF PROCEEDINGS.

25 *Mary Ann McGinty*
MARY ANN MCGINTY, REPORTER